

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 7: Rito de Tierra Amarilla

**[PROPOSED] ORDER ESTABLISHING PROCEDURES**  
**FOR ENTRY OF PARTIAL FINAL JUDGMENT AND DECREE**  
**ON SURFACE WATER IRRIGATION RIGHTS**  
**IN THE RITO DE TIERRA AMARILLA SUBSECTION OF**  
**SECTION 7 OF THE RIO CHAMA STREAM SYSTEM**

THIS MATTER comes before the Court on Plaintiff State of New Mexico, *ex rel.* State Engineer's *Motion to Establish Procedures for Entry of Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System* (Doc. \_\_\_, filed \_\_\_\_). The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises, finds the Motion to be well-taken, and that it should be GRANTED. Further, the Court enters this Order pursuant to Fed.R.Civ.P. 16(b) to guide the course of the determination of water rights in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System ("Tierra Amarilla Subsection").

1. The State of New Mexico (“State”) shall prepare a proposed Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“proposed Decree”) with an Addendum that summarizes the water rights adjudicated and decreed therein. A copy of the Addendum, and hydrographic survey maps showing the location of all tracts described in the proposed Decree, shall be filed with the Court no later than ten (10) days after the entry of this order establishing procedures for the entry of a partial final judgment and decree. Within ten (10) days of the entry of this order, the proposed Decree, Addendum, and hydrographic survey maps shall be made available for public inspection at the Office of the Rio Arriba County Clerk in Tierra Amarilla and in Española; at the Federal District Court in Santa Fe and Albuquerque; at the Utton Center at the UNM School of Law; and the Water Resource Allocation Program (WRAP) of the Office of the State Engineer (“OSE”) in Santa Fe at 130 South Capitol Street. These documents shall also be posted on the OSE website ([www.ose.state.nm.us](http://www.ose.state.nm.us)).

2. The State shall prepare a proposed Notice of Proposed Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“Mailing Notice”) with forms to be served on defendants in the Tierra Amarilla Subsection, including the United States and community ditches in the Tierra Amarilla Subsection within ten (10) days of the entry of this order. The Mailing Notice shall be mailed to the last known address of individual subfile defendants as they are listed in the Court’s records.<sup>1</sup> The State shall not be required to make a determination of current ownership of tracts, nor mail notices to any person not a party to these proceedings. A successor-in-interest to an

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<sup>1</sup> Under the *Procedural Order for the Adjudication of Water Rights Claims in Section 7 of the Rio Chama Stream System* (Doc. 6939, filed 11/19/2002), “[a]ll claimants, whether or not they are represented by counsel, are responsible for informing the Court of any changes in their mailing address or changes in ownership of water rights or real property associated with the rights.” p.6, ¶ IV.

individual subfile defendant may request substitution of parties under Fed.R.Civ.P. 25(c) in order to participate in the proceedings. The State shall file an appropriate Certificate of Service with the Court following the mailing of the Mailing Notice to defendants in the Tierra Amarilla Subsection.

3. The State shall prepare a proposed Public Notice of Proposed Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Tierra Amarilla Subsection for publication (“Public Notice”) to inform all known and unknown claimants of water rights in the Tierra Amarilla Subsection of their right to participate and offer evidence in support of *inter se* objections to the proposed Decree in the Tierra Amarilla Subsection. The Public Notice shall be published once a week for four consecutive weeks in the *Rio Grande Sun*, which is a newspaper of general circulation in the Tierra Amarilla Subsection and the Rio Chama Stream System generally. The State shall file an appropriate Proof of Publication with the Court following publication of the Public Notice.

4. The Mailing Notice and the Public Notice shall be consistent with Exhibits 3 and 4 of the State’s Motion and shall inform claimants in the Tierra Amarilla Subsection that this *inter se* proceeding will be the only opportunity to file objections to the determination of surface water irrigation rights described in the proposed Decree, Addendum, and hydrographic survey maps, and that **all persons having water rights in the Tierra Amarilla Subsection will be bound by the outcome of the proceedings to resolve *inter se* objections.**

5. The Mailing Notice and the Public Notice shall inform claimants in the Tierra Amarilla Subsection that all *inter se* objections must be filed with the Court, in person or by mail, for receipt no later than \_\_\_\_\_ (60 days after entry of procedural order). Blank forms that may be used for filing *inter se* objections shall be mailed to defendants with the Mailing

Notice, made available to the public with the proposed Decree at the locations described in Paragraph 1 above, and posted on the OSE website. The form shall also be included with the Mailing Notice to be mailed to defendants in the Tierra Amarilla Subsection.

6. If any *inter se* objections are timely filed, the State shall prepare a report that summarizes all objections and make the report available for public inspection at the locations described in Paragraph 1 above, by \_\_\_\_\_ (90 days after entry of procedural order). The State shall mail a copy of the *inter se* objections to those persons whose water rights are the subject of those objections, by certified mail, return receipt requested, and file an appropriate Certificate of Service with the Court. Persons who file timely *inter se* objections and the affected subfile parties/defendants, shall be required to attend a mandatory scheduling and pretrial conference with the Court in Santa Fe on \_\_\_\_\_ (134 days from entry of order). Further procedures for resolving objections to the proposed Decree shall be determined at the conference.

7. Whether or not they have filed an objection, all persons having water rights in the Tierra Amarilla Subsection may participate in the proceedings to resolve *inter se* objections. Persons who elect to participate in the proceedings to resolve *inter se* objections shall file a Notice of Intent to Participate in *Inter Se* Proceedings form with the Court no later than \_\_\_\_\_ (120 days after entry of procedural order). Blank forms that may be used for this purpose shall be made available to the public at the locations described in Paragraph 1 above with the report that summarizes *inter se* objections, and posted on the OSE website. Persons who elect to participate in the proceedings to resolve *inter se* objections shall also be required to attend the mandatory scheduling and pretrial conference with the Court in Santa Fe.

8. At the conclusion of the *inter se* process, the Court will enter the State's proposed Decree as a Partial Final Judgment and Decree for the Tierra Amarilla Subsection, with an

Addendum that summarizes all water rights, amended by any changes ordered through the *inter se* process. The entered Decree will represent the final adjudication of all claims for surface water irrigation rights in the Tierra Amarilla Subsection and bind all claimants of water rights of any type in the Tierra Amarilla Subsection, subject to the rights of parties who are not included within the Tierra Amarilla Subsection to object to the Decree, or to contest any individual water right described in the Decree, in any further *inter se* proceedings ordered by the Court for the Rio Chama or Rio Grande Stream Systems generally.

9. The Court approves the State's proposed Mailing Notice to be served on defendants in Tierra Amarilla Subsection, proposed Public Notice for publication, proposed *Inter Se* Objection Form, and proposed Notice of Intent to Participate in *Inter Se* Proceedings Form attached to the State's \_\_\_\_\_, 2018 Motion as Exhibits 3, 4, 5, and 6.

**IT IS SO ORDERED.**

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KIRTAN KHALSA  
UNITED STATES MAGISTRATE JUDGE